

AMENDED IN SENATE AUGUST 28, 2006

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN SENATE JUNE 14, 2006

AMENDED IN ASSEMBLY MAY 3, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2449

Introduced by Assembly Member Levine

February 23, 2006

An act to add ~~Chapter 5.1 (commencing with Section 42247)~~ and *repeal Chapter 5.1 (commencing with Section 42250)* to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 2449, as amended, Levine. Recycling: plastic *carryout* bags.

The California Integrated Waste Management Act of 1989 establishes an integrated waste management program and establishes requirements for the recycling and reuse of various products, including metallic discards, compost, plastic packaging containers, and newsprint. Existing law requires every manufacturer that manufactures specified plastic trash bags to ensure that at least 10% of the weight of the regulated bags, or that at least 30% of the weight of the material used, in all of its plastic products intended for sale in this state is recycled plastic postconsumer material.

This bill would require the operator of a store, as defined, to establish an ~~in-store~~ *at-store* recycling program that provides an

opportunity for a customer of the store to return—a *clean* plastic carryout bag provided by the store back bags to that store. The bill would require a plastic carryout bag provided by a store to have specified information printed or displayed on the bag, and would require the placement of a plastic carryout bag collection bin in each store that is visible and easily accessible to the consumer. The bill would also require the operator of a store to make reusable bags, as defined, available to customers, for purchase.

The bill would require a manufacturer of plastic carryout bags to ~~provide any needed assistance to any person who operates more than one store to develop in-store recycling programs for each individual store~~ *develop educational materials to encourage the reducing, reusing, and recycling of plastic carryout bags and to make the materials available to stores, as specified.*

The bill would declare that certain matters regarding plastic carryout bags are matters of statewide interest and concern. The bill would prohibit a city, county, or other public agency from adopting, implementing, or enforcing an ordinance, resolution, regulation, or rule that requires a store to collect, transport, or recycle plastic carryout bags or conduct additional auditing or reporting, or imposing a plastic carryout bag fee upon a store, except as specified.

The bill would authorize a city, county, or the state to impose civil liability, in specified amounts, and would require any civil penalties collected to be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action. The bill would authorize any penalties collected by the Attorney General to be expended by the Attorney General, upon appropriation by the Legislature, to enforce the bill's requirements.

The bill's provisions would become operative on July 1, 2007.

The bill's requirements would be repealed on January 1, 2013, unless a later enacted statute deletes or extends that date.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (a)

(1) On a global level, the production of plastic bags has significant environmental impacts each year, including the use of over 12 million barrels of oil, and the deaths of thousands of marine animals through ingestion and entanglement.

(b)

(2) Each year, an estimated 500 billion to 1 trillion plastic bags are used worldwide, which is over one million bags per minute, and of which billions of bags end up as litter each year.

(c)

(3) Most plastic carryout bags do not biodegrade, but photodegrade, which means that the bags break down into smaller and smaller toxic bits that contaminate soil and waterways and enter ~~in~~ into the food web when animals accidentally ingest those materials.

(b) *It is the intent of the Legislature, in enacting Chapter 5.1 (commencing with Section 42250) Part 3 of Division 30 of the Public Resources Code, to encourage the use of reusable bags by consumers and retailers and to reduce the consumption of single-use bags.*

~~SEC. 2. Chapter 5.1 (commencing with Section 42247) is added to Part 3 of Division 30 of the Public Resources Code, to read:~~

~~CHAPTER 5.1. IN-STORE RECYCLING PROGRAM~~

~~42247. For purposes of this chapter, the following definitions shall apply:~~

(a) ~~“Store” means a retail establishment in the state that meets both of the following requirements:~~

(1) ~~The store has over 40,000 square feet of retail space.~~

(2) ~~More than 5 percent of the store’s merchandise is not subject to a sales or use tax pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.~~

(b) ~~“Manufacturer” means the producer of a plastic carryout bag sold to a store.~~

(c) ~~“Operator” means a person in control of, or having daily responsibility for, the daily operation of a store, which may include, but is not limited to, the owner of the store.~~

(d) ~~“Plastic carryout bag” means a plastic carryout bag provided by a store to a customer at the point of sale.~~

(e) “Reusable bag” means a bag made of cloth or other machine washable fabric that has handles and can accommodate at least 50 pounds.

42248. The operator of a store shall establish an in-store recycling program pursuant to this chapter that provides an opportunity for a customer of the store to return a plastic carryout bag provided by the store back to that store.

42249. An in-store recycling program provided by the operator of a store shall include all of the following:

(a) A plastic carryout bag provided by the store shall have printed or displayed on the bag, in a manner visible to a consumer, the words “PLEASE RECYCLE THIS BAG.”

(b) A plastic carryout bag collection bin shall be placed in each store and shall be visible and easily accessible to the consumer.

(c) The operator of the store shall make reusable bags available to customers, which may be purchased in lieu of using a plastic carryout bag or paper bag.

42249.1. A manufacturer shall provide any needed assistance to a person who operates more than one store to develop in-store recycling programs for each individual store operated by that person, to ensure that the plastic carryout bags are collected, transported, and recycled in accordance with this division.

42249.2. This chapter shall become operative on July 1, 2007.
SEC. 2. Chapter 5.1 (commencing with Section 42250) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 5.1. AT-STORE RECYCLING PROGRAM

42250. For purposes of this chapter, the following definitions shall apply:

(a) “Manufacturer” means the producer of a plastic carryout bag sold to a store.

(b) “Operator” means a person in control of, or having daily responsibility for, the daily operation of a store, which may include, but is not limited to, the owner of the store.

(c) “Plastic carryout bag” means a plastic carryout bag provided by a store to a customer at the point of sale.

(d) “Reusable bag” means either of the following:

1 *(1) A bag made of cloth or other machine washable fabric that*
2 *has handles.*

3 *(2) A durable plastic bag with handles that is at least 2.25 mils*
4 *thick and is specifically designed and manufactured for multiple*
5 *reuse.*

6 *(e) “Store” means a retail establishment that provides plastic*
7 *carryout bags to its customers as a result of the sale of a product*
8 *and that meets either of the following requirements:*

9 *(1) Meet the definition of a “supermarket” as found in Section*
10 *14526.5.*

11 *(2) Has over 10,000 square feet of retail space that generates*
12 *sales or use tax pursuant to the Bradley-Burns Uniform Local*
13 *Sales and Use Tax Law (Part 1.5 (commencing with Section*
14 *7200) of Division 2 of the Revenue and Taxation Code) and has*
15 *a pharmacy licensed pursuant to Chapter 9 (commencing with*
16 *Section 4000) of Division 2 of the Business and Professions*
17 *Code.*

18 42251. *(a) The operator of a store shall establish an at-store*
19 *recycling program pursuant to this chapter that provides an*
20 *opportunity for a customer of the store to return to the store*
21 *clean plastic carryout bags.*

22 *(b) A retail establishment that does not meet the definition of a*
23 *store, as specified in Section 42250, and that provides plastic*
24 *carryout bags to customers at the point of sale may also adopt an*
25 *at-store recycling program, as specified in this chapter.*

26 42252. *An at-store recycling program provided by the*
27 *operator of a store shall include all of the following:*

28 *(a) A plastic carryout bag provided by the store shall have*
29 *printed or displayed on the bag, in a manner visible to a*
30 *consumer, the words “PLEASE RETURN TO A*
31 *PARTICIPATING STORE FOR RECYCLING.”*

32 *(b) A plastic carryout bag collection bin shall be placed at*
33 *each store and shall be visible, easily accessible to the consumer,*
34 *and clearly marked that the collection bin is available for the*
35 *purpose of collecting and recycling plastic carryout bags.*

36 *(c) All plastic bags collected by the store shall be collected,*
37 *transported, and recycled in a manner that does not conflict with*
38 *the local jurisdiction’s source reduction and recycling element,*
39 *pursuant to Chapter 2 (commencing with Section 41000) and*
40 *Chapter 3 (commencing with Section 41300) of Part 2 .*

1 (d) The store shall maintain records describing the collection,
2 transport, and recycling of plastic bags collected for a minimum
3 of three years and shall make the records available to the board
4 or the local jurisdiction, upon request, to demonstrate
5 compliance with this chapter.

6 (e) The operator of the store shall make reusable bags
7 available to customers within the store, which may be purchased
8 and used in lieu of using a plastic carryout bag or paper bag.
9 This subdivision is not applicable to a retail establishment
10 specified pursuant to subdivision (b) of Section 42251.

11 42253. The manufacturer of a plastic carryout bag shall
12 develop educational materials to encourage the reducing,
13 reusing, and recycling plastic bags and shall make those
14 materials available to stores required to comply with this
15 chapter.

16 42254. (a) The Legislature finds and declares that all of
17 these are matters of statewide interest and concern:

18 (1) Requiring a store to collect, transport, or recycle plastic
19 carryout bags.

20 (2) Imposing a plastic carryout bag fee upon a store.

21 (3) Requiring a store to conduct auditing or reporting with
22 regard to plastic carryout bags.

23 (b) Unless expressly authorized by this chapter, a city, county,
24 or other public agency shall not adopt, implement, or enforce an
25 ordinance, resolution, regulation, or rule to do any of the
26 following:

27 (1) Require a store that is in compliance with this chapter to
28 collect, transport, or recycle plastic carryout bags.

29 (2) Impose a plastic carryout bag fee upon a store that is in
30 compliance with this chapter.

31 (3) Require auditing or reporting requirements that are in
32 addition to what is required by subdivision (d) of Section 42252,
33 upon a store that is in compliance with this chapter.

34 (c) This section does not prohibit the adoption,
35 implementation, or enforcement of any local ordinance,
36 resolution, regulation, or rule governing curbside or drop off
37 recycling programs operated by, or pursuant to a contract with,
38 a city, county, or other public agency, including any action
39 relating to fees for these programs.

1 (d) *This section does not affect any contract, franchise, permit,*
2 *license, or other arrangement regarding the collection or*
3 *recycling of solid waste or household hazardous waste.*

4 42255. (a) *A city, county, or the state may impose civil*
5 *liability in the amount of five hundred dollars (\$500) for the first*
6 *violation of this chapter; one thousand dollars (\$1,000) for the*
7 *second violation, and two thousand dollars (\$2,000) for the third*
8 *and subsequent violation.*

9 (b) *Any civil penalties collected pursuant to subdivision (a)*
10 *shall be paid to the office of the city attorney, city prosecutor,*
11 *district attorney, or Attorney General, whichever office brought*
12 *the action. The penalties collected pursuant to this section by the*
13 *Attorney General may be expended by the Attorney General,*
14 *upon appropriation by the Legislature, to enforce this chapter.*

15 42256. *This chapter shall become operative on July 1, 2007.*

16 42257. *This chapter shall remain in effect only until January*
17 *1, 2013, and as of that date is repealed, unless a later enacted*
18 *statute, that is enacted before January 1, 2013, deletes or extends*
19 *that date.*